

RULE PROPOSALS INTERESTED PERSONS

The Department of Corrections provides notices of rule proposals in the New Jersey Register (N.J.R.), a semi-monthly official publication of the Office of Administrative Law which contains all State agency rule proposals and adoptions. The following paragraph is quoted from the Proposal section of the New Jersey Register: Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal. The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B3. An extended comment deadline will be noted in the heading of a proposal or appear in a subsequent notice in the Register. At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

CORRECTIONS

THE COMMISSIONER

Interjurisdictional Agreements and Statutes

Proposed Readoption with Amendments: N.J.A.C. 10A:10

Authorized By: Victoria L. Kuhn, Esq., Commissioner, Department of Corrections.

Authority: N.J.S.A. 2A:159A-1 et seq., 2A:160-6 et seq., 30:1B-6, 30:1B-10, 30:7C-1 et seq., and 30:7D-1; U.S. Const. Art. 4, § 2, cl. 2; and 18 U.S.C. App. 2 § 2.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2022-154.

Submit written comments by February 3, 2023, to:

Kathleen Cullen

Administrative Rules Unit

New Jersey Department of Corrections

PO Box 863

Trenton, New Jersey 08625-0863

or through email: ARU@doc.nj.gov

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 10A:10 was scheduled to expire on November 5, 2022. Pursuant to N.J.S.A. 52:14B-5.1.c(2), as the Department of Corrections (“Department” or “DOC”) submitted this notice of proposal to the Office of Administrative Law prior to that date, the chapter’s expiration date was extended 180 days to May 4, 2023. The Department has reviewed these rules and, with the exception of the proposed amendments, has determined them

to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. The rules are, therefore, proposed for readoption with amendments.

The Department of Corrections has determined that the comment period for this notice of proposal will be 60 days; therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is excepted from the rulemaking calendar requirement.

N.J.A.C. 10A:10 provides requirements for the interjurisdictional transfer of inmates, including interstate and international transfers, for both confinement and the disposal of charges in a jurisdiction outside of New Jersey. Subchapter 1 sets forth general provisions for the chapter, including, but not limited to, the purpose, scope, definitions, form information, inmate records, and property transfer involving interjurisdictional movement of inmates. The Department proposes amendments at N.J.A.C. 10A:10-1.4, Forms, to more accurately identify how inmates can secure the required forms by replacing “by accessing the Department of Corrections computer network (DOCNet). Interested individuals who do not have access to DOCNet may obtain copies of forms by contacting the Administrative Rules Unit, New Jersey Department of Corrections” with “from classification or social services staff.”

Subchapter 2 is reserved.

Subchapter 3 sets forth, among other things, the statutory authority, definitions, application of compact, eligibility criteria, riders to contracts, reasons for interstate transfer, processing consensual transfers, classification summary, and the notice of consensual transfers of the “Interstate Corrections Compact,” and rules regarding nonconsensual transfers. The Department proposes to add “if available” to N.J.A.C. 10A:10-3.8(a)24iii, to replace “Director” with “Assistant Commissioner” at N.J.A.C. 10A:10-3.14(c), and add new N.J.A.C. 10A:10-3.15(b)5 to state that “upon receipt of an Order to Produce (writ) from a Superior Court in the sending state.”

Subchapter 4 sets forth the authority and processes for detainers and the Department proposes to replace the existing reference to form numbers with references to forms II, III, and IV at N.J.A.C. 10A:10-4.5(b)3i and ii and to add new N.J.A.C. 10A:10-4.5(b)6 that states “the Commissioner, or designee, shall be advised when a New Jersey inmate is being transferred, pursuant to the Act.”

Subchapter 5 sets forth the authority and process details associated with extradition of an inmate or parole violator.

Subchapter 6 sets forth rules and criteria for international transfers.

Subchapter 7 sets forth rules for notification of foreign consuls, when foreign nationals are imprisoned.

Social Impact

The rules proposed for readoption with amendments provide information regarding the interjurisdictional agreements and statutes. The Department anticipates a positive social impact as a result of the rules proposed for readoption with amendments, as the rules are necessary for the purpose of providing rules that comply with State law and implement processes related to the Interstate Corrections Compact, and the proposed amendments reflect current practices within the Department.

Economic Impact

Additional funding is not necessary to implement the requirements of the rules proposed for readoption with amendments. The cost of meeting and maintaining the requirements of the rules proposed for readoption with amendments is met by the Department through the established budget with funds allocated by the State and has no external economic impact.

Federal Standards Statement

The rules proposed for readoption with amendments are promulgated under the authority of the rulemaking requirements of the Department of Corrections, as established at N.J.S.A. 30:1B-6, 30:1B-10, and 30:7C-1 et seq. The rules proposed for readoption with amendments comply with, and do not exceed, any related Federal statutes, requirements, or standards. Accordingly, a Federal standards analysis is not required. The Department extends certain courtesies to foreign nationals as set forth at N.J.A.C. 10A:10-2.7 in keeping with the Vienna Convention on Consular Relations (VCCR), but has no direct agreements with foreign consuls.

Jobs Impact

The rules proposed for readoption with amendments will cause neither the generation nor the loss of any jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for readoption with amendments do not impose reporting, recordkeeping, or other compliance requirements on small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments affect the New Jersey Department of Corrections and governmental entities responsible for the enforcement of the rules.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have no impact on housing affordability and there is an extreme unlikelihood that the rules proposed for readoption with amendments would evoke a change in the average costs associated with housing in New Jersey. The rules proposed for readoption with amendments concern the interjurisdictional agreements and statutes used by the New Jersey Department of Corrections and corrections agencies in other jurisdictions or governmental entities responsible for the enforcement of the rules.

Smart Growth Impact Development Analysis

The rules proposed for readoption with amendments will have no impact on the achievement of smart growth and there is an extreme unlikelihood the rules proposed for readoption with amendments will evoke a change in housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The rules proposed for readoption with amendments concern the interjurisdictional agreements and statutes used by the New Jersey Department of Corrections and corrections agencies in other jurisdictions or governmental entities responsible for the enforcement of the rules.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department of Corrections has evaluated this rulemaking and determined that it will not have an impact on pretrial detention or sentencing. The classification process does impact probation and potentially parole and has been implemented and updated in compliance with related State laws. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10A:10.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

10A:10-1.4 Forms

(a) The following forms related to the Interstate Corrections Compact are available [by accessing the Department of Corrections computer network (DOCNet). Interested individuals who do not have access to DOCNet may obtain copies of forms by contacting the Administrative Rules Unit, New Jersey Department of Corrections] **from classification or social services staff:**

1.-6. (No change.)

(b)-(d) (No change.)

SUBCHAPTER 3. INTERSTATE CORRECTIONS COMPACT

10A:10-3.8 Classification summary

(a) Pursuant to the requirements [of] **at** N.J.A.C. 10A:10-3.7, the Classification Department Supervisor, or designee, of the correctional facility where the inmate is housed shall prepare a classification summary to be forwarded to the Administrator, which contains current information concerning the inmate in areas of:

1.-23. (No change.)

24. Medical history and recommendations, which shall include:

i.-ii. (No change.)

iii. Results of TB (tuberculosis), Hepatitis C, and HIV (Human Immunodeficiency Virus) tests, **if available**; and

25. (No change.)

(b) (No change.)

10A:10-3.14 Review of requests from other state compact members for transfer of inmates to New Jersey

(a)-(b) (No change.)

(c) The request shall then be forwarded to the [Director] **Assistant Commissioner**, Division of Operations, for approval or disapproval.

(d) (No change.)

10A:10-3.15 Receiving state acting as agent for sending state

(a) (No change.)

(b) Inmates confined in a correctional facility pursuant to the terms of the Interstate Corrections Compact shall be, at all times, subject to the legal jurisdiction of the sending state and may, at any time, be removed therefrom for any of the following reasons:

1.-3. (No change.)

4. Discharge; [or]

5. Upon receipt of a court Order to Produce (writ) from a Superior Court in the sending state; or

[5.] **6.** (No change in text.)

(c)-(f) (No change.)

SUBCHAPTER 4. AGREEMENT ON DETAINERS

10A:10-4.5 Inmate request for transfer

(a) (No change.)

(b) The following action shall be taken if the inmate indicates a desire to dispose of the detainer(s):

1.-2. (No change.)

3. The classification officer shall ensure that Forms II, III, and IV are copied, distributed, and promptly transmitted in accordance with the instructions printed on the forms and as follows:

i. Forms **II, III, and IV** shall be sent to the prosecuting official and the clerk of the court having jurisdiction over the matter in the receiving state by registered or certified mail, return receipt requested; and

ii. Forms **II, III, and IV** shall be sent to any other prosecutor in the receiving state who has lodged a detainer against the inmate.

4. The classification officer and the prosecuting authority in the receiving state shall determine a date and time for transfer of the inmate to the receiving state; [and]

5. The classification officer shall ensure that completed Form VI Evidence of Agent's Authority to Act for Receiving State and Form VII Prosecutor's Acceptance of Temporary Custody offered in Connection with a Prisoner's Request for Disposition of a Detainer, have been obtained from the prosecuting authority in the receiving state prior to the transfer of the inmate to the receiving state[.]; **and**

6. The Commissioner, or designee, shall be advised when a New Jersey inmate is being transferred, pursuant to the Act.

(c) (No change.)